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8 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
9 AT TACOMA

10 JOSEPH G. SIMMONS JR,

11 Plaintiff,

12 v.

13 DEBORAH J. WOFFARD et al.,

14 Defendants.

CASE NO. C11-5999-BHS-JRC

ORDER DENYING APPOINTMENT
OF COUNSEL

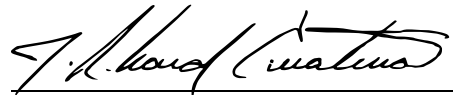
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16 This 42 U.S.C. §1983 civil rights matter has been referred to the undersigned Magistrate
17 Judge pursuant to 28 U.S.C. §§ 636(b)(1)(A) and (B) and Local Magistrate Judges' Rules MJR
18 1, MJR 3, and MJR 4. Plaintiff asks the Court to appoint counsel.

19 There is no right to have counsel appointed in cases brought under 42 U.S.C. § 1983.
20 Although the court can request counsel to represent a party, 28 U.S.C. § 1915(e) (1), the court
21 may do so only in exceptional circumstances. Wilborn v. Escalderon, 789 F.2d 1328, 1331 (9th
22 Cir. 1986); Franklin v. Murphy, 745 F.2d 1221, 1236 (9th Cir. 1984); Aldabe v. Aldabe, 616
23 F.2d 1089 (9th Cir. 1980). A finding of exceptional circumstances requires an evaluation of both
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1 the likelihood of success on the merits and the ability of the plaintiff to articulate his claims pro
2 se in light of the complexity of the legal issues involved. Wilborn, 789 F.2d at 1331.

3 Plaintiff has demonstrated an adequate ability to articulate his claims pro se and has not
4 made an argument regarding the likelihood of success on the merits. The court is not in a
5 position to evaluate the likelihood of success on the merits. While plaintiff alleges he has mental
6 impairments he has so far been able to communicate through pleadings adequately. The motion
7 is DENIED.

8 Dated this 27th day of January, 2012.

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11 J. Richard Creatura
12 United States Magistrate Judge
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